

REMARKS

Following entry of the foregoing amendments, claims 1-42 constitute the pending claims in the present application. Claims 11-19 and 21-41 are withdrawn from consideration. Claims 1-10, 20, and 42 are rejected. Applicants respectfully request reconsideration in view of the amendments made herein and the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

Claims 7, 9, 27, and 29 have been amended to incorporate the definition of the variable “m.” Applicants assert this definition is consistent with the usage of “m” in other claims and presents no new matter. Furthermore, claims 1, 3, 5, 7, 9, 21, 23, 25, 27, 29, 41, and 42 have been amended to correct various typographical errors. Applicants assert these amendments present no new matter.

1.-2. Election/Restrictions

The Examiner has withdrawn from consideration claims 11-19 and 21-41 as being drawn to non-elected inventions. Pursuant to the allowance of claims 1, 3, 5, 7, and 9, Applicants request examination of dependent claims 11-19, as required under MPEP 809.04.

3. Claim Objections

Claims 2, 4, 6, 8, and 10 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The Office Action asserts that the dependent claims read upon compounds wherein at least one variable is “absent” and that this limitation is not seen to be within the scope of the independent claims. Applicants have amended claim 1, 3, 5, 7, and 9 to place the objected to claims in proper dependent form. Claims 21, 23, 25, 27, and 29 have been amended analogously. Applicants assert that claims 2, 4, 6, 8, and 10, as amended, are not of improper dependent form. Applicants reserve the right to prosecute claims of similar or differing scope to claims 1, 3, 5, 7, 9, 21, 23, 25, 27, and 29 in their unamended forms in subsequent applications. Applicants respectfully request withdrawal of the objection.

4.-5. Claim Rejections – 35 USC 102

Claims 1-10 are rejected under 35 USC 102(b) as being anticipated by Suginome *et al. Bull. Chem. Soc. Jpn.* **1981**, 54, 3042-3047. Suginome discloses an oxidized derivative of *N*-acetyljervine (compound **3**, scheme 1, page 3043). The Office Action maintains that instant claims read on compound **3** of Suginome. Applicants respectfully traverse this rejection to the extent it is maintained over the claims as amended.

Solely for the purpose of expediting prosecution, Applicants have amended claims 1, 3, 5, 7, and 9 so that the tertiary amine recited therein is substituted by an alkyl substituted with a group selected from aryl, aralkyl, heteroaryl, heteroaralkyl, amide, acylamino, carbonyl, ester, carbamate, urea, ketone, sulfonamide, carbocyclyl, heterocyclyl, polycyclyl, ether, halogen, alkenyl, and alkynyl. Support for these amendments can be found on page 36, line 3 of the specification. Claims 21, 23, 25, 27, and 29 have been amended analogously. Applicants assert that claims 1, 3, 5, 7, and 9, as amended, do not read on compound **3** of Suginome, thereby obviating this rejection. Applicants reserve the right to prosecute claims of similar or differing scope to claims 1, 3, 5, 7, 9, 21, 23, 25, 27, and 29 in their unamended forms in subsequent applications. Applicants respectfully request withdrawal of the objection.

6.-8. Claim Rejections – 35 USC 103

Claims 1-10, 20, and 42 are rejected under 35 USC 103(a) as being unpatentable over Suginome *et al. Bull. Chem. Soc. Jpn.* **1981**, 54, 3042-3047 and Beachy *et al.* US 6,432,970 in combination. Applicants assert that claims 1, 3, 5, 7, and 9, as amended do not read on compound **3** of Suginome, and Beachy *et al.* do not overcome this deficiency. As such, Applicants submit that the 35 USC 103(a) rejection over Suginome and Beachy in combination is overcome and respectfully request withdrawal of the rejection.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

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Respectfully submitted,

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